

BRADIUM TECHNOLOGIES LLC. v. IANCU, Appeal Nos. 2017-2579, 2017-2580 (Fed. Cir. May 13, 2019). Before Moore, Reyna and Chen. Appealed from PTAB.

Background:

Microsoft requested *inter partes* reviews of two patents owned by Bradium. The patents were directed to retrieving large-scale images over network communication channels in low bandwidth conditions. The cited art disclosed optimizing delivery of large-scale terrain images and disclosed that such delivery systems are generally designed for "high-speed network connections such as a gigabit-per-second network," which involves a broadband connection whose bandwidth is temporarily limited due to high user loads.

Bradium argued that the claim term "limited bandwidth communications channel" should be construed narrowly to mean "a narrowband communications channel," which is "limited in bandwidth due to technical constructs on the channel itself," and does not include a broadband channel, like the one disclosed in the cited art. On the other hand, Microsoft argued that the claim term should be given its plain and ordinary meaning of "a communication channel whose bandwidth is limited" which includes a broadband channel whose bandwidth is temporarily limited due to high user loads.

The Board rejected Bradium's construction, adopted Microsoft's construction, and invalidated Bradium's patents over the cited art. Bradium challenged the Board's construction on appeal but later settled with Microsoft. The USPTO intervened to defend its conclusion.

Issue/Holding:

Did the Board err in construing the term "limited bandwidth communication channel"?
No, affirmed.

Discussion:

The Federal Circuit said that the Board's construction is supported by the shared written description of both patents stating that "limited bandwidth conditions may exist due to either the direct technological constraints...or indirect constraints imposed on relatively high-bandwidth channels by high concurrent user loads." The Federal Circuit concluded that this statement does not provide that a limited bandwidth communication channel cannot be a high-bandwidth channel, but actually supports the Board's construction because it makes it clear that limited bandwidth can result from either "direct technological constraints" or "indirect constraints" such as "high concurrent user loads." Further, the Federal Circuit explained that a single statement describing two causes for limited bandwidth is not a clear and unambiguous definition limiting the term to only one cause.

The Federal Circuit also found that the Board's construction is supported by the extrinsic evidence of the inventor's testimony. The inventor had testified that the invention operated in a technical environment allowing streaming of image data "over a limited communication such as dial up or wireless," and that this bandwidth limitation "can be inherent in the communication itself...or can be limited by the amount of users." Thus, the Federal Circuit concluded that the Board did not err in construing the term.